

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Ilkka KOJO

Conf. No: 2363

Application No: 10/585,293

Art Unit: 3742

Filed: January 20, 2005

Examiner:

For: SUPPLY SYSTEM FOR SMELTING FURNACE

REQUEST FOR REFUND

COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

Sir:

Applicant was charged \$130 for the surcharge for late submission of the oath or declaration, as set forth in 37 CFR 1.492(h). Moreover, this application has been accorded a 35 USC 371(c) date of April 14, 2009. It is requested that the surcharge of \$130 be refunded and that this application should be accorded a 35 USC 371(c) date of July 5, 2006.

The basis for the surcharge and assigning the 35 USC 371(c) date of April 14, 2009 is that the declaration was filed on April 14, 2009, not July 5, 2006 when the other items for entering the US national stage were submitted. Applicant submits that the declaration was in fact provided no later than July 5, 2006.

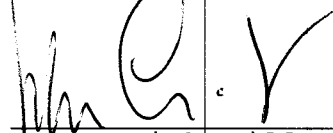
Form PCT/IB/308(Second and Supplementary Notice) was mailed on May 18, 2006 and confirms that the international application was communicated to the US Designated/Elected Office on May 18, 2006. The international application includes the request and Box VIII-4 of the request includes the Declaration of Inventorship for the purposes of the designation of the United States of America. Moreover, on checking the image file wrapper for this application, it is evident that the document that was categorized

as the oath or declaration filed on July 5, 2006 was in fact the power of attorney and applicant's declaration was incorrectly categorized as Documents submitted with 371 Applications.

In the circumstances, applicant submits that the declaration was submitted within the time limit provided in PCT Rule 26ter.1 and therefore the Notification of Missing Requirements should not have been issued and no surcharge is required for late filing of the declaraton. Furthermore, since the copy of the international application (including the declaration) was filed on July 5, 2006, all the elements under 35 USC 371(c) were present on that date and accordingly this application should be accorded a 35 USC 371(c) date of July 5, 2006.

Please credit the refund to Deposit Account 19-2560.

Respectfully submitted,



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Docket: OUTT 3501